

**108-1-3. School district employee health care benefits plan.** (a) Definitions.

(1) "Commission" means the Kansas state employees health care commission.

(2) "Health care benefits program" means the state of Kansas health care benefits program established by the commission.

(3) "Permanent and total disability" means that an individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for a continuous period of at least 12 months. An individual shall not be considered to have a permanent and total disability unless that person furnishes proof of the permanent and total disability in the form and manner, and at the times, that the health care benefits program may require.

(4) "Qualified school district" means a public school district, community college, area vocational technical school, or technical college that meets the terms, conditions, limitations, exclusions, and other provisions established by the commission for participation in the school district employee health care benefits component of the health care benefits program and has entered into a written agreement with the commission to participate in the program.

~~(3)~~ (5) "School district employee" means any individual who is employed by a qualified school district and who meets the definition of employee under K.S.A. 74-4932(4), and amendments thereto, except that the following employees shall be employed in a position that requires at least 1,000 hours of work per year:

(A) Employees of community colleges; and

(B) employees of area vocational technical schools and technical colleges that are not governed by a unified school district.

For purposes of this definition, a technical college shall be a participating employer under K.S.A. 74-4931, and amendments thereto, in accordance with K.S.A. 72-4471, and amendments thereto.

~~(4)~~ (6) “School district plan” means the school district employee health care benefits component of the health care benefits program.

(b) Active participants. Subject to the provisions of subsection (c), each school district employee shall be eligible to participate as an active participant in the school district plan. Eligibility and participation shall be subject to terms, conditions, limitations, exclusions, and other provisions established by the commission, including the amount and method of payment for employee and employer contributions.

(c) Waiting periods.

(1) Each school district employee whose first day of work for a qualified school district is on or after the first day on which the employee’s qualified school district participates in the school district plan shall become eligible for coverage following completion of a ~~60-day~~ 30-day waiting period beginning with the first day of work for the qualified school district. Each school district employee shall have 31 days after becoming eligible to elect ~~health insurance~~ coverage.

(2) The waiting period established in paragraph (c)(1) shall not apply if all of the following conditions are met:

(A) The person is returning to work for the qualified school district ~~or is~~, transferring from another qualified school district, or transferring from a position that is eligible for coverage under K.A.R. 108-1-1 or K.A.R. 108-1-4.

(B) Immediately before leaving the prior position, the person was enrolled in the ~~school district plan or was covered by the health care insurance plan provided by the employee's~~ qualified school district benefits program.

(C) The break in service between the prior position and the new position does not exceed the following time periods:

(i) 30 or fewer calendar days; or

(ii) 365 or fewer calendar days, if the person was laid off in accordance with the practices of the qualified school district.

(3) The waiting period established in paragraph (c)(1) shall not apply to any person who, on that person's first day of work for the qualified school district, is enrolled in the health care benefits program on any of the following bases:

(A) As a direct bill participant;

(B) under the continuation of benefits coverage provided under public law 99-272, as amended; or

(C) as a dependent of a participant in the health care benefits program.

(4) The waiting period established in paragraph (c)(1) may be waived when if, within 30 days of the date of hire, the chief administrative officer of the qualified school district, or the chief administrative officer's designee, meets the following requirements certifies in writing to

the commission, or its designee, that the waiver is being sought for either of the following reasons:

(A) ~~The chief administrative officer or the chief administrative officer's designee shall provide both of the following certifications to the commission, or its designee, in writing:~~

(i) ~~A potential~~ The new school district employee is not entitled to continuation of health benefits available from prior insurance coverage under public law 99-272, the consolidated omnibus budget reconciliation act (COBRA) as amended, or state continuation of coverage laws, K.S.A. 40-2209 and K.S.A. 40-3209 and amendments thereto, and is not covered by or eligible to be covered by another health insurance plan.

(ii) ~~The waiting period poses, or will pose, an obstacle to recruitment.~~

(B) ~~The chief administrative officer or the chief administrative officer's designee shall submit the request for a waiver before the employee's acceptance of the position~~ new employee is required to have health insurance as a condition of obtaining a work visa for employment in the United States.

~~(4)~~ (5) Each school district employee who is employed by the ~~employee's~~ qualified school district immediately before the first day on which the employee's qualified school district participates in the school district plan shall be subject to transitional provisions established by the commission regarding waiting periods and the effective date on which the employee becomes eligible to participate in the school district plan.

~~(5) The waiting period described in this subsection may be waived by the commission if the commission determines that failure to grant a waiver would create a manifest injustice or undue hardship on the school district employee.~~

(d) ~~Categories~~ Classes of direct bill participants. Subject to the provisions of subsection (e), the classes of persons eligible to participate as members of the school district plan on a direct bill basis shall be ~~those classes of persons listed below~~ the following:

(1) Any retired school district employee who is receiving state warrants for retirement benefits;

(2) any totally disabled former school district employee who is receiving benefits under K.S.A. 74-4927, and amendments thereto;

(3) any surviving spouse or dependent of a qualifying participant in the school district plan;

(4) any person who is a school district employee and who is on approved leave without pay in accordance with the practices of the qualified school district; and

(5) any individual who was covered by the health care plan offered by the qualified school district on the day immediately before the first day on which the qualified school district participates in the school district plan, except that no individual who is an employee of the qualified school district and who does not meet the definition of school district employee in subsection (a) shall be qualified as a direct bill participant under this paragraph.

(e) Conditions for direct bill participants. Each person who is within a class listed in subsection (d) shall be eligible to participate on a direct bill basis only if the person meets both of the following ~~requirements~~ conditions:

(1) The person was covered by the school district plan or the health care insurance plan offered by the qualified school district on one of the following bases:

(A) Immediately before the date the person ceased to be eligible for coverage, or for any person identified in paragraph (d)(5), immediately before the first day on which the qualified school district participates in the school district plan, the person either was covered as an active participant under subsection (b) or was covered by the health care insurance plan offered by the employee's qualified school district.

(B) The person is a surviving spouse or dependent of a ~~person~~ plan participant who was enrolled as a ~~plan participant~~ under subsection (b) or (d) ~~at the time when~~ the plan participant died, and the person was enrolled in ~~spouse or dependent coverage~~ the health care benefits program under subsection (g) ~~at the time when~~ the plan participant died.

(C) The person is a surviving spouse or dependent of a ~~person~~ plan participant who was enrolled as a ~~plan participant~~ under the health care insurance plan offered by the participant's qualified school district ~~at the time when~~ the participant died, and the person ~~was covered under the same plan at the time the participant died~~ has maintained continuous coverage under the qualified school district's health care insurance plan before joining the health care benefits program.

(2) The person ~~files a statement of election with the commission's health benefits administrator to continue coverage under the plan~~ completes an enrollment form requesting transfer to the direct bill program and submits the form to the health care benefits program. ~~The election to continue coverage shall be submitted on a form prescribed by the commission's health benefits administrator.~~ The form shall be submitted no more than 30 days after the person ceased to be eligible for coverage, or in the case of any individual identified in paragraph (d)(5),

no more than 30 days after the first day on which the qualified school district participates in the school district plan.

(f) Continuation of benefits (COBRA) coverage. Any individual with rights to extend coverage under provisions of public law 99-272, as amended, may participate in the school district plan, subject to the provisions of that federal law.

~~(g) Coverage of spouses and dependents. Any person who is enrolled in the school district plan under subsection (b), (d), or (f) may enroll a spouse and eligible dependent children, subject to the same conditions and limitations that apply to the person enrolled in accordance with this regulation~~ Eligible dependent participants.

(1) Any person enrolled in the health care benefits program as a primary participant may enroll the following dependents, subject to the same conditions and limitations that apply to the primary participant:

(A) The primary participant's lawful wife or husband; and

(B) any of the primary participant's eligible dependent children.

(2) An eligible dependent child who is enrolled by one primary participant shall not be eligible to be enrolled by another primary participant.

(3) An individual who is eligible to enroll as a primary participant in the health care benefits program shall not be eligible to be enrolled under this subsection as a dependent in the health care benefits program.

(4) The term "dependent" shall exclude any individual who is not a citizen or national of the United States, unless the individual is a resident of the United States or a country contiguous to the United States, is a member of a primary participant's household, and resides with the

primary participant for more than six months of the calendar year. The dependent shall be considered to reside with the primary participant even when the dependent is temporarily absent due to special circumstances, including illness, education, business, vacation, and military service.

(h) Eligible dependent participants; definitions. For purposes of subsection (g), the following terms shall be defined as follows:

(1) "Primary participant" means any person enrolled in the health care benefits program under subsection (b), (d), or (f).

(2) "Child" means any of the following:

(A) A natural son or daughter of a primary participant;

(B) a lawfully adopted son or daughter of a primary participant. The term "lawfully adopted" shall include those instances in which a primary participant has filed the petition for adoption with the court, has a placement agreement for adoption, or has been granted legal custody;

(C) a stepchild of a primary participant. However, if the natural or adoptive parent of the stepchild is divorced from the primary participant, the stepchild shall no longer qualify;

(D) a child of whom the primary participant has legal custody; or

(E) a grandchild, if at least one of the following conditions is met:

(i) The primary participant has legal custody of the grandchild or has lawfully adopted the grandchild;

(ii) the grandchild lives in the home of the primary participant and is the child of a covered eligible dependent child, and the primary participant provides more than 50% of the support for the grandchild; or

(iii) the grandchild is the child of a covered eligible dependent child and is considered to reside with the primary participant even when the grandchild or eligible dependent child is temporarily absent due to special circumstances including education of the covered eligible dependent child, and the primary participant provides more than 50% of the support for the grandchild.

(3) “Eligible dependent child” means any dependent child who meets the criteria in either paragraph (h)(3)(A) or paragraph (h)(3)(B):

(A) The child meets all of the following criteria:

(i) The child is under 23 years of age.

(ii) The child is unmarried.

(iii) The child does not file a joint tax return with another taxpayer.

(iv) The child receives more than 50% of the child’s support from the primary participant, except that this criteria shall not apply with respect to any child who meets the conditions established under the special rule for divorced parents in 26 USC § 152(e), as adopted by reference in K.A.R. 108-1-1.

(B) The child is over the age of 23, has a permanent and total disability, and has continuously maintained group coverage as an eligible dependent child of the primary participant before attaining the age of 23. The child shall be chiefly dependent on the primary participant for support.

(i) Direct bill participants; continuous coverage provisions.

(1) Except as otherwise provided in this subsection, each direct bill participant enrolled in the health care benefits program on or after January 21, 2001 shall maintain continuous coverage in the program or shall lose eligibility to be in the health care benefits program as a direct bill participant under subsection (d).

(2) Any person who discontinued direct bill coverage in the health care benefits program before January 21, 2001 and who was not participating on a direct bill basis on that date may return one time to the health care benefits program if the person meets the criteria specified in subsections (d) and (e) and if that person has not previously discontinued and returned to direct bill coverage before January 21, 2001. (Authorized by K.S.A. 2008 Supp. 75-6501 and K.S.A. 75-6510; implementing K.S.A. 2008 Supp. 75-6501 and K.S.A. 75-6508; effective, T-108-9-13-99, Sept. 13, 1999; effective Feb. 4, 2000; amended P-\_\_\_\_\_.)